

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 VICKI CHANG,

11 Plaintiff,

12 v.

13 ANDREW VANDERWIELEN, *et al.*,

14 Defendants.

CASE NO. C22-0657-JCC

ORDER

15 This matter comes before the Court on pre-service review of Plaintiff's proposed *in*
16 *forma pauperis* complaint (Dkt. No. 1-1), as required under 28 U.S.C. § 1915(e)(2)(B). Plaintiff,
17 proceeding *pro se*, recently filed an application to proceed *in forma pauperis* (Dkt. No. 1-3).
18 Under 28 U.S.C. § 1915(a), the Court must review and dismiss before service the associated
19 complaint if it is "frivolous, malicious, fail[s] to state a claim upon which relief may be granted,
20 or seek[s] monetary relief from a defendant immune from such relief." 28 U.S.C.
21 § 1915(e)(2)(B); *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) ("[T]he provisions
22 of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners.").

23 Plaintiff's proposed complaint is similar, in all material respects, to the complaint she
24 filed in an earlier-filed case: *Chang v. Vanderwielen*, Case No. C22-0013-JCC (W.D. Wash.).
25 There, the Honorable S. Kate Vaughan, United States Magistrate Judge, already issued a report
26 and recommendation ("R&R") on a summary judgment motion seeking dismissal of that

1 complaint. *See* Case No. C22-0013-JCC, Dkt. No. 14. In the R&R, Judge Vaughan found that the
2 complaint fails to state a claim for relief, at least with respect to Defendant Dr. Riddhi Kothari.
3 *See* Case No. C22-0013-JCC, Dkt. No. 65 at 12. Moreover, Defendants Edward Collins and
4 Andrew Vanderwielen—also named in this action—have since moved to dismiss that same
5 complaint. *See* Case No. C22-0013-JCC, Dkt. No. 68. Therefore, it appears to the Court that
6 Plaintiff's present *in forma pauperis* complaint is duplicative of Plaintiff's earlier action, which
7 is presently being litigated.

8 An *in forma pauperis* complaint that merely repeats pending or previously litigated
9 claims may be dismissed under § 1915. *See Cato v United States*, 70 F3d 1103, 1105 n.2 (9th Cir
10 1995); *Bailey v Johnson*, 846 F2d 1019, 1021 (5th Cir 1988). Similarly, an *in forma pauperis*
11 complaint repeating the same factual allegations asserted in an earlier case, even if now filed
12 against certain additional defendants, as is the case here, is also subject to dismissal as
13 duplicative. *See Van Meter v Morgan*, 518 F2d 366, 368 (8th Cir 1975); *Ballentine v Crawford*,
14 563 F. Supp. 627, 629 (N.D. Ind. 1983).

15 For the foregoing reasons, plaintiff's request to proceed *in forma pauperis* is DENIED
16 and the instant allegations are hereby DISMISSED with prejudice to reasserting them in another
17 unpaid complaint. The Clerk is DIRECTED to send Plaintiff a copy of this order.

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19 DATED this 17th day of May 2022.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE